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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA
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11 NORTHWEST ADMINISTRATORS, INC.,

No. C 04-5395 CRB

12 Plaintiff,

**ORDER GRANTING DEFAULT
JUDGMENT**

13 v.

14 CARONE & SONS, INC.,

15 Defendant.
16 _____/

17 Now before the Court is the plaintiff's motion for a default judgment. Having
18 carefully reviewed the papers submitted by the plaintiff, the Court concludes that oral
19 argument is unnecessary and GRANTS the motion for a default judgment.

20 Plaintiff filed this action to recover unpaid contributions, liquidated damages, and
21 interest for payments due pursuant to a collective bargaining agreement. The defendant did
22 not answer the complaint, and on March 28, 2005, the Clerk entered defendant's default.
23 Plaintiff subsequently filed this pending motion for a default judgment. As of the date of this
24 order, the defendant has not responded to the motion for a default judgment and has not
25 otherwise communicated with the Court.

26 When a court is considering whether to enter a default judgment, it has "an affirmative
27 duty to look into its jurisdiction over both the subject matter and the parties." In re Tuli, 172
28 F.3d 707, 712 (9th Cir. 1999) ("To avoid entering a default judgment that can later be

1 successfully attacked as void, a court should determine whether it has the power, i.e., the
2 jurisdiction, to enter the judgment in the first place.”). Here, the defendant is a resident of
3 California, so the Court may exercise personal jurisdiction. The Court has subject matter
4 jurisdiction because the plaintiff’s claim arises under the Employee Retirement Income
5 Security Act (ERISA), 29 U.S.C. § 1132(e).

6 As the defendant has not answered the complaint, and as the recovery sought is readily
7 ascertainable and certain, the motion for default judgment is GRANTED in the total amount
8 of \$5,042.39. This amount consists of the delinquent employee benefit contribution
9 payments for the months of September 1004, October 2004 and January 2005, plus liquidated
10 damages, interest and attorneys’ fees.

11 **IT IS SO ORDERED.**

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13 Dated: October 3, 2005



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15 CHARLES R. BREYER
16 UNITED STATES DISTRICT JUDGE
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